

## Parliament Activity Review December 2-6, 2002

December 9, 2002

Given that Transdnistrian problem was at issue at the OSCE Ministerial Conference, one of the Parliament's last week priorities was the President's initiative to inaugurate a new ministerial portfolio, namely Ministry of Territorial Integration.

### Legal acts adopted in the final reading

#### I. Law on modification of the Law on Government.

**ADEPT comment:** Under the modifications a new position, Minister of Integration is to be established within the Government. Initially President's initiative raised a lot of controversial discussions on the grounds that the newly appointed Minister would be superior to the other Ministries as he/she would be entitled to coordinate the activities of all the ministries and departments oriented towards national integration. After long discussions, deputies excluded this controversial provision.

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#### I. Law on State Social Insurance Budget for Year 2003.

**ADEPT comment:** The law sets a 29% social security tax. For notaries and lawyers the social security tax equals 3 average salaries. Other taxes have been set for:

- ? Plots (1.7 lei for one unit hectare);
- ? Legal entities' farming lease (600 lei/ per year);
- ? Founders of individual companies, persons working abroad based on a contract (800 Lei/ per year);
- ? Employers in disabled or pensioners' public associations (4.5 % of the salary fund), etc.

It is estimated that in 2003 the average wage per economy would be 820 Lei.

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#### III. Law on Migration.

**ADEPT comment:** Under the law a Migration Department, a central specialized body in the field shall be set up in view of promoting and enforcing the state migration policy. In addition, the Department shall be entrusted to issue ID, to cooperate with the governmental and non-governmental institutions active in the field.

In less than two weeks the Parliament decided to inaugurate a new ministerial portfolio and to establish two Ministerial Departments on Humanitarian Aid and on Migration. Noteworthy, the Parliament established another two Departments on Legislative Expertise and on Fighting Embezzlement and Corruption, consequently the Government becomes a more bureaucratic structure. Although deputies continue to voice their discontent with regard to newly sprung structures they continue to vote for their establishment.

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#### IV. Law on ratification of the NIS Agreement on mutual recognition of licensees for construction activity.

**ADEPT comment:** Member states agree to recognize the licensees issued for certain types of construction activities, by issuing a national license.

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### Legal acts adopted in the first reading (not final)

#### I. Draft law on political parties and other socio-political organizations.

**ADEPT comment:** On December 6 session the Parliament failed to adopt the draft law providing the increase of the minimum party members to 15,000 members, due to the lack of votes. Before the final vote, it was mentioned that several Parliament Commissions, a series of extra-parliament parties as well as representatives of non-governmental organizations objected the adoption of such an amendment.

On December 5, the Parliament voted in the first reading the draft law modifying and completing the Law on Political Parties so as to oblige parties to yearly updating data on the number of party members and party territorial

organizations in half of second level administrative-territorial units. The said data are to be submitted to the Ministry of Justice. If a party fails to do so or fails to gather the number required, then the Ministry may decide to commence the party liquidation procedures. Then the Ministry would address to the Supreme Court of Justice to confirm the fact the party ceased its activity. The initiative also stirred a lot of controversial discussions, opposition claims that the initiative is another attempt of the majority faction to resort to administrative methods in view of cleansing the political spectrum.

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## **II. Draft law on social assistance.**

**ADEPT comment:** The draft law is aimed to identify the principles and objectives of social assistance; right to social assistance; beneficiaries of social assistance services, etc. Social assistance is based on the following principles: independence, autonomy and dignity, right to free assistance, guaranteeing access to social services, social solidarity, flexibility of the social security, social partnership and personal responsibility. The following may benefit of the social assistance:

- ? Children and youth affected by the environment they live in;
- ? Families having no possibility to raise and take care of their children;
- ? Single persons, low-income families;
- ? Disabled children;
- ? Families with many children;
- ? Single parent families;
- ? Disabled persons, etc.

Social assistance shall be provided in the form of allocations, in-kind, as well as social services. The draft also defines the bodies entitled to provide social services and their obligations, as well as sources of funding. A series of objections to the law were voiced, in particular related to the assessment of the beneficiaries' needs and establishing the minimum living standard.

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## **III. Draft law on amending the legal acts regulating the Constitutional Court.**

**ADEPT comment:** According to the amendments, upon the parity vote of the Constitutional Court judges, the disputed act shall be ruled as constitutional. Upon parity vote while the adopting Constitutional Court Resolutions or notifications the decision shall be postponed. The Parliament is trying to impose a similar procedure the Constitutional Court imposed on them earlier on, namely that the Chair' vote should not be considered decisive.

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## **IV. Draft law on import and export of goods by the Republic of Moldova citizens.**

**ADEPT comment:** The draft is aimed at adjusting the various laws in the field. Under the law goods worth 100 Euro may be brought into the country tax-free. It is also recommended to increase the amount of foreign currency allowed to be brought into the country from 5,000 to 10,000 USD. The law also prohibits residents to import vehicles older than 10 years. Many deputies stated that the provisions of the law are restrictive and unclear, which may lead to difficulties in enforcing the law.

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## **V. Law on modification of Article 12 of the Law on State Regulation of the Foreign Trade.**

**ADEPT comment:** Under the law, the Government would be deprived of the right to establish a pre-customs inspection of goods. Noteworthy, the Government has been striving to settle this issue since it was invested despite that IMF insists on it. The Government has enough legal grounds to cancel the inspection, namely the resolution of the Constitutional Court, however it doesn't have IMF approval.

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## **VI. Draft law on amending the Law on Licensing.**

**ADEPT comment:** Under the amendments, the licenses issued by the foreign licensing bodies shall be considered valid in the Republic of Moldova in compliance with the international agreements the country adhered to.

## **Parliament Activity Review December 9-13, 2002**

December 16, 2002

The most important legal acts adopted by Parliament in the time period covered were the Law on Indemnifying Deposits in the Savings Bank and Law on Political Parties.

### **Legal acts adopted in the final reading**

#### **I. Law on indemnifying bank deposits in the Savings Bank.**

**ADEPT comment:** The law provides principles for indemnification, quantum and payment of indemnities. Under the law deposits shall be indemnified at the ration 1 ruble - 1 Lei for the first thousand of rubles and at the ration 2.5 rubles - 1 Lei for the amount exceeding 1 thousand rubles per person.

The amount due as indemnities is 1,8 billion Lei and is to be paid within 15 years. State budget for year 2003 provides for 43 million lei worth indemnities, which are to be paid, based on a regulation to be adopted by the Government.

Initially, Transdnistrian residents were not subject to the law, however in the final version the Parliament decided that the issue should be reconsidered once financial relations between the two regions resume. This is another incentive used by the Parliament to motivate Transdnistrian residents to pursue the reunification of the two regions.

The enforcement of the law would take some time, the first indemnities are due to be paid in several months, just in time for the authorities to exploit this fact on the eve of 2003 local elections.

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#### **II. Law on modification and completion of the Law on Political Parties.**

**ADEPT comment:** The law voted only by the majority faction, obliges parties to annually submit the list of their party members for the Ministry of Justice to reconfirm the number of party members. If the Ministry does not confirm the necessary number of party members, then it shall request the court to rule on party liquidation. A Liquidation Commission is to be formed based on the court ruling. Furthermore, the law obliges parties to establish their territorial units in at least half of second-level administrative-territorial units.

The majority faction declined amendments submitted by the opposition on the grounds they are too complex and should be the subject of a new draft law.

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#### **III. Law on modification and completion of legal acts on entering and exiting the country and liability violating thereof.**

**ADEPT comment:** The law:

1. Provides a new wording of Article 80 of the Penal Code and provides that the article does not extend on the persons who entered Republic of Moldova as asylum seekers or victims of human trafficking.
2. Completes the Code of Offence with several new articles, regulating the expulsion from the soil of the Republic of Moldova of the foreign citizens who violate the rules of stay in the country, registration or re-registration of ID.
3. Modifies the Law on entering and exiting Republic of Moldova by specifying the procedure for inviting foreign citizens to the country, their registration, etc.

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#### **IV. Law on ratification of international acts.**

**ADEPT comment:** Under the law the following documents were ratified:

1. Agreement between the Republic of Moldova and Croatia on trade and economic cooperation signed on August 12, 2002 by the President of the Republic of Moldova and President of the Republic of Croatia.

2. Agreement between the Government of the Republic of Moldova and Government of the Slovak Republic on trade and economic activity.
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## **V. Resolution on overseeing the enforcement of the Law on plant protection.**

**ADEPT comment:** The Resolution highlights the flaws related to the said law enforcement and recommends perfecting the legal framework in the field. Furthermore, under the resolution the Government shall establish a reserve fund for purchasing pesticides and for protecting plants, as well as for subsidies to plant protection activities through biological methods.

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## **Legal acts examined and adopted in the first reading (not final)**

### **I. Draft law on public control over the state activity.**

**ADEPT comment:** The said draft was developed within the framework of the Social Pact initiated by the President of the Republic of Moldova. One of its goals is to establish an efficient public control over the state activity, in view of ensuring the observance of citizens' constitutional rights and making state policy and public bodies accountable to the society.

Although it includes several provisions aimed towards participatory democracy, the law also includes quite a number of declarative provisions, which would make their enforcement very difficult. Although the draft was published in mass media for public debates, it failed to draw public attention. Neither political parties nor non-governmental organizations commented or made recommendations on the law.

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### **II. Draft law on privatization.**

**ADEPT comment:** The new law regulates the process of transferring public property into private ownership. The law is aimed to:

- a. establish conditions for restructuring, stabilizing and bolstering national economy;
- b. enlarge private sector;
- c. attract investments;
- d. develop estate market;
- e. enhance efficiency of the enterprises, etc.

The following are the main principles of privatization:

- a. free access and equal rights to privatization;
- b. transparency of the privatization process;
- c. granting lead to employees of the enterprises to be privatized, etc.

The law also specifies: subjects of privatization; patrimony not subject to privatization; prerogatives of the body entitled to conduct privatization; preparing privatization process; privatization procedures; privatization in certain fields of industry, etc.

The most controversial provision was the one referring to the liabilities of the parties in the sale-purchase contract of the public patrimony. Initially the law provided that if the buyer of the privatized unit failed to pay the entire amount, violated any provisions of the contract, or failed to achieve at least one of the privatization objectives, then the seller would be entitled to initiate the procedure of contract annulment. In such a case, no money paid in advance shall be returned to the buyer, no expenses shall be reimbursed, however the buyer would have to cover the relevant expenses and possible losses. World Bank objected to the provision and it would probably be excluded during the second reading, or re-worded so as to suit international organizations.

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### **III. Draft law on pre-dispatch inspection.**

**ADEPT comment:** The issue has taken center stage since the Government at the pressure of international financial organizations passed a relevant decision. Despite numerous attempts to get rid of the relevant procedure, enterprises still have to resort to "SGS" services whenever they intend to import goods into the Republic of Moldova falling within the category of obligatory inspection.

Constitutional Court interfered and ruled as unconstitutional Government's prerogative to establish the procedure of pre-dispatch inspection of the imported goods.

The draft developed by the Government and proffered for Parliament examination is aimed to regulate pre-dispatch inspection, importers' rights and obligations, rights of the state bodies and of the companies selected to conduct pre-inspection expedition.

During the first reading deputies voiced their concern with regard to some ambiguous provisions. In particular they cited the obligation to conduct pre-dispatch inspection, which is recommended to be optional.

Also, the company to inspect the imported goods is to be selected via an open tender, whereas the contract should provide for timely rendering of inspection services.

To conclude, debates on the issue are not finished and they would definitely continue. On the one hand international monetary organizations insist on the inspection, on the other hand domestic importers and producers oppose it. If not for the contract with SGS, there would be possible to reach a compromise. If Moldovan authorities annul the contract they would have to pay considerable penalties. Needless to say, domestic businessmen claimed if this happens they would gather the money necessary to cover for the penalties.

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#### **IV. Draft law on assessing product conformity.**

**ADEPT comment:** The draft law regulates conformity assessment of the products, equipment, processes, technologies, production systems and dangerous works, quality of the services in order to ensure national security, prevent frauds and protect citizens' rights.

The law defines several notions, establishes bodies entitled to conduct assessment and accreditation, etc. The law is aimed to substitute the current legal framework on certification. Representatives of all Parliament factions criticized the draft, which would rather undergo extensive changes until its adoption.

## Parliament Activity Review December 16-27, 2002

December 30, 2002

As usual at the end of the session Parliament examined quite a number of legal acts, trying to adopt the ones considered to be a priority or the ones due to enter in force at the end of the calendar year. Respectively, a special attention was given to the Law on the State Budget and the Law on Social Insurance. Besides the aforesaid acts the Parliament managed to examine several important draft laws.

### Legal acts adopted in the final reading

#### **I. The Law on approving the regulations on establishment and operation of Control Commissions and income declarations.**

**ADEPT comment:** The law is aimed to ensure the enforcement of the Law on income declarations, passed by the Parliament last summer. Under that law by January 30, 2003 all state officials are to submit their income declarations. According to the newly adopted law several Commissions are to be established whereto declarations are to be submitted:

1. The following shall submit declarations to the Central Control Commission: President of the Republic of Moldova, MPs, Government members, judges of the Constitutional Court, of the Supreme Court of Justice, of the Court of Appeal, members of the Supreme Magistracy Council, judges, Prosecutor General, prosecutors and their deputies, members of the Court of Accounts, members of the National Bank Board of Directors, members of the Securities National Commission, ombudsmen, Chairperson of the Central Electoral Commission and his/her deputies, chiefs of local public administration.
2. The following shall submit declarations to the Department Commission of the State Chancellery: Deputy Ministers, Chiefs of Departments and their Deputies, Chiefs of State Services, Chiefs of the Customs Offices and their deputies, Heads of State Agencies and their deputies, Head of License Chamber and his/her deputy, Heads of public institutions, state or municipal enterprises, or enterprises with state capital and their deputies.
3. The following shall submit declarations to the commissions established within public administration: state officials, other high rank specialists.

The regulations adopted by the Parliament provide that whenever violations are found the relevant commissions are to address the Center for Fighting Economic Crimes and Corruption.

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#### **II. Law on fingerprint registration.**

**ADEPT comment:** As compared to the first draft (see ADEPT comment of October 14-18, 2002) several amendments have been operated regarding sources of funding, tabulation, and recording. The law provides that public institutions whose employees are obliged to undergo fingerprint registration should cover the relevant expenses. Drivers, refuge seekers as well as citizens leaving for a job abroad should have their fingerprints registered, at a cost of 20 Lei. Overall, the enforcement of the law would cost around 2 million lei, however the budget does not provide for such an amount.

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#### **III. Law on amending legal acts regulating the activity of Constitutional Court.**

**ADEPT comment:** The law provides that upon parity of votes during the adoption of resolution on the constitutionality of legal acts or international treaties, the relevant act or treaty shall be considered constitutional. In other cases, the decision shall be postponed.

Also the Parliament deprived the Chair of the Constitutional Court of the right to decisive vote upon parity vote. Opposition claims the move is aimed at subordinating the Constitutional Court to the majority faction interests, as the ruling party has recently appointed two of the Court members.

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#### **IV. Law on the import and export of goods from the country.**

**ADEPT comment:** In the final reading, provisions have been introduced increasing the non-taxable amount from 100 to 200 Euro. Also, the amount of alcohol allowed into the country was increased from 1 to 2 liters. The law also provides other goods that could be verbally declared. In other cases, the person should fill a written customs declaration. The law allows bringing or taking out of the country precious metals worth 10,000 Euro. Separate provisions of the law regulate the import of vehicles into the country.

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#### **V. Law on museums.**

**ADEPT comment:** The above law regulates the establishment and operation of state and private museums. The law defines such notions as museum, museum collection, museum patrimony, scientific, historic, cultural or museum evaluation. Museums have the following functions:

- ? preserving the patrimony;
- ? ensuring patrimony safety;
- ? undertaking cultural and scientific programs to promote cultural patrimony;
- ? scientific and cultural exchanges.

The law also regulates state policy in the field, administration of museums, rights of the personnel, liquidation, etc.

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#### **VI. Law on additional pensions to the residents to the left of Dniester river.**

**ADEPT comment:** Commencing January 1, 2003 pensioners and disabled residing in Cocieri, Cosnita, Dorotcaia, Pirita and Molovata Noua villages, situated on the left bank of Dniester river shall receive additional 50-100 lei to their pensions.

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#### **VII. Law on modification and completion of the Law on Education.**

**ADEPT comment:** The law specifies the procedure for Government to follow when recommending the President to establish or reorganize scientific research institutions. Previously, opposition claimed that the law was an attempt to undermine universities' autonomy and that the law should not govern private institutions.

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#### **VIII. Law on establishing Tourism Department.**

**ADEPT comment:** Under the law, National Tourism Agency shall be reorganized into the Tourism Department. The Government shall approve the new structure and organizational chart of the newly established Department. Currently the Agency employs 11 persons. After reorganization the Department is to develop tourism as a branch of the national economy. Many experts are skeptical with regard to the efficiency of such measures, as the establishment of a new bureaucratic structure would not contribute to better a infrastructure or better services in the field.

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#### **IX. Law on obligatory medical insurance.**

**ADEPT comment:** Although obligatory medical insurance was postponed for six months, the Parliament adopted the frame law regulating the amount and procedure of paying medical insurance. The law shall be binding for all local public administration bodies, companies, institutions, organizations and other economic units regardless of their form of property, as well as for natural entities practicing entrepreneurial activity, as well as for foreign residents. The amount due for medical insurance in 2003 shall be 340 lei.

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#### **X. Resolution on raising the salary to the Constitutional Court judges.**

**ADEPT comment:** The Parliament decided to raise the salary of the Constitutional Court magistrates, judges and assistants to the judges. Also an indemnification for high professionalism worth 50% of the salary was established. Under the law, The Chairperson of the Constitutional Court shall receive a 450 lei indemnity.

On the one hand the Parliament restricted Constitutional Court's possibility to rule as unconstitutional laws and international treaties, on the other hand it raised the salaries so as to motivate them.

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## **XI. Laws on ratification of international acts.**

**ADEPT comment:** The Parliament ratified the following:

1. European Convention on overseeing the purchase and holding of arms by individuals.
  2. CIS agreement on provision of medication, vaccines, and other medical products produced in CIS.
  3. European Convention on cross-border television.
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## **Legal acts adopted in the first reading (not-final)**

### **I. Draft law on fighting extremism.**

**ADEPT comment:** The draft regulates activities aimed to fight extremism, so as to defend human rights and freedoms, constitutional governing and preserving the integrity of the Republic of Moldova. Extremist activities are considered:

- ? the activity of non-governmental and religious organizations, of mass media or any other organization, as well as of the legal entity consisting in planning, organization, preparation or conduct of an action aimed to seize the state power, to establish illegal armed forces, to conduct terrorist actions, or mass disorders, etc.
- ? promoting or displaying in public fascist symbols or any other symbols of the kind;
- ? funding or other in-kind contributions to the aforesaid activities;
- ? calls to conduct aforesaid actions.

Opposition criticized the draft on the grounds that the law would enable the President to ban political parties and organizations in opposition to the incumbent governing. The reaction of the Council of Europe experts determined Communist faction to postpone further examination of the draft for the spring session.